

*Held*, that the plank was a "way" within the meaning of s-s. 1 of s. 3 of the Workmen's Compensation for Injuries Act, and that the knot and cross-grain were defects in the way, for which the defendant was responsible.

*Wallace Nesbitt* for the plaintiff.

*Osler, Q.C.*, for the defendant.

Div'l Court.]

[Dec. 30, 1893.

MILNE v. MOORE.

*Administration—Domestic and foreign creditors—Right to rank pari passu—Jurisdiction of Master on foreign debts.*

A testator, resident and domiciled up to the time of his death in the United States, was possessed of personal property there as well as in Ontario. Probate was granted to his executrix in the United States as well as in Ontario; and there are foreign creditors in both countries. In administration proceedings in Ontario,

*Held*, that the foreign creditors were entitled to rank *pari passu* with the creditors in Ontario.

*Re Kloobe*, 28 Ch.D. 175, followed.

It was urged that only claims provable in the administration proceedings were those for which an action could be maintained; and that *Re Kloobe* was distinguishable because, since it was decided, the right to maintain an action by foreign creditors was restricted to lands.

*Held*, that the rules as to maintenance of action by foreigners depended on the procedure with regard to service, which were not applicable here, and that even if they were the contention raised could not prevail, in that the parties were all before the Master without any objection being taken to his jurisdiction.

*W. R. Riddell* for the appeal.

*McBrayne*, *contra*.

STREET, J.]

[March 2, 1894.

RE WALLACE v. VIRTUE.

*Division Court—Jurisdiction—Amount ascertained by signature—R.S.O., c. 51, s. 7, s-s. (c)—Prohibition.*

The defendant covenanted in a lease to pay the plaintiff \$210 on a certain date, as rent reserved in the lease. That amount has been reduced by a payment of \$34, leaving the sum of \$180.40 due for principal and interest. The plaintiff brought his action in the Division Court for that amount, and prohibition was applied for, upon the ground that the amount was not within the jurisdiction of the Division Court.

*Held*, that the \$210 was an amount ascertained by the signature of the defendant under s-s. (c) of s. 7, R.S.O., c. 51, and the motion was dismissed.

*McDermid v. McDermid*, 15 A.R. 287, and *Robb v. Murray*, 16 A.R. 503, referred to and considered.

*C. J. Holman* for the motion.

*Douglas Armour*, *contra*.